

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Bracey C. Dixon, Jr.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 06-344 SLR
	:	
City of Wilmington, Chief James Ford,	:	
Deputy Chief Willie Patrick and	:	
Battalion Chief George Cunningham,	:	
	:	
Defendants.	:	

APPENDIX TO DEFENDANTS' OPENING BRIEF
IN SUPPORT OF THEIR MOTION TO DISMISS

Andrea J. Faraone, Esquire (I.D. #3831)
City of Wilmington Law Department
Louis L. Redding City/County Building
800 N. French Street, 9th Floor
Wilmington, DE 19801
(302) 576-2175
Attorney for Defendants

TABLE OF CONTENTS

	PAGE
Dixon's EEOC Charge dated February 9, 2004	A-1
Dixon's Right-to-Sue Letter dated May 28, 2004	A-4
Dixon's Complaint dated May 24, 2006	A-5
Jobes' Complaint and Civil Cover Sheet dated July 11, 2005	A-12
Jobes' Case Docket Sheet	A-17
Jobes' Charge of Discrimination dated May 28, 2004	A-21
Dixon's Case Docket Sheet	A-23

FEB 12 2004

EEOC FORM 131 (5/01)

U. S. Equal Employment Opportunity Commission

Mr. James Ford
Chief
CITY/WILMINGTON FIRE DEPARTMENT
Public Safety Building
300 N. Walnut Street
Wilmington, DE 19801

PERSON FILING CHARGE

Bracy Dixon, JR

THIS PERSON (check one or both)

☒ Claims To Be Aggrieved☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

170-2004-00607

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

☒ Title VII of the Civil Rights Act☐ The Americans with Disabilities Act☐ The Age Discrimination in Employment Act☐ The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☐ No action is required by you at this time.2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.3. ☒ Please provide by **09-MAR-04** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.4. ☒ Please respond fully by **09-MAR-04** to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.5. ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by toIf you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Rita D. Epperson,
Supervisory Investigator

EEOC Representative

Telephone: (215) 440-2644

Philadelphia District Office
21 South 5th Street
Suite 400
Philadelphia, PA 19106

Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☐ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

A-1

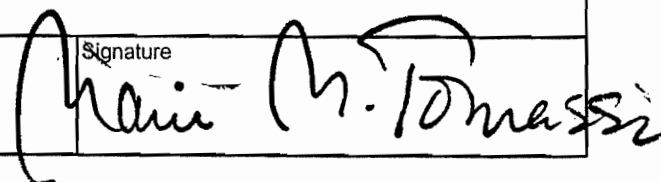
Date

Feb 09, 2004

Name / Title of Authorized Official

Marie M. Tomasso,
Director

Signature



CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):



FEPA



EEOC

170-2004-00607

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Bracy Dixon, Jr.

Home Phone No. (Incl Area Code)

(302) 764-1130

Date of Birth

10-30-1964

Street Address

806 W. 34th Street,

City, State and ZIP Code

Wilmington, DE 19802

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

CITY OF WILMINGTON FIRE DEPARTMENT

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(302) 576-3950

Street Address

800 N. French Street,

City, State and ZIP Code

Wilmington, DE 19801

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

08-04-2003

Latest

08-04-2003

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by Respondent as a Firefighter in August 1993. Respondent cross trains a few Firefighters so that they can work in the Fire Marshall's division (Arson Investigation) as well as in Suppression (putting out fires) and Fire Prevention. In order to work in Arson, a Firefighter has to be sent to the Police Academy in order to be able to carry a weapon and make arrests. In order to be considered for cross training, you have to apply. I did so and was chosen for cross training out of approximately 20 individuals. I graduated from the Wilmington Police Academy in January 2001. Since that time, I have not been able to work full-time in the Arson Division. I have only been called to work in Arson on an "as needed" basis.

I began to complain about the operations within the department, however, I did not mention race discrimination. I was retaliated against in that I was repeatedly denied overtime and not offered continued training so that I can keep my police certification. I had to use my off time for my training. Normally this training is conducted during duty hours. No explanation was given for this. Further, my gun was confiscated. I was told my gun was being confiscated because I was off sick in early August 2003. I have over 100 days of sick leave - and I followed procedure by calling out sick prior to shift on the day in question.

A-2

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Dec 01, 2003

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**170-2004-00607**

_____ and EEOC

_____ State or local Agency, if any

THE PARTICULARS ARE (Continued from previous page):

On or about August 4, 2003, I learned that three white Firefighters, who have less training than I do, were interviewed for full-time placement in the Arson division. I complained to Chief Ford, who is the head of the Wilmington Fire Department, about this. I said to him I believe this was racially motivated.

I am aware that Gabriel Pabon (W), who was one of three interviewees, accepted the job and was placed into the division in August 2003. I have far more experience and certification than Mr. Pabon. The other two interviewees were John Looney and Daniel Anderson.

Since August 2003, I continued to be denied training and overtime. To the best of my knowledge, there were no other openings in the Arson Department since Mr. Pabon's placement into that department.

I believe I have been discriminated against because of my race, black, in violation of Title VII of the Civil Rights Act of 1964, as amended.

RECEIVED - EEOC
PHILADELPHIA, D.C.
03 DEC - 1 PM 1:30

A-3

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Dec 01, 2003

Date

Charging Party Signature

DISMISSAL AND NOTICE OF RIGHTS

To: Bracy Dixon
806 W. 34th Street
Wilmington, DE 19802

From: Equal Employment Opportunity Commission
Philadelphia District Office
The Bourse
21 S. Fifth Street, Suite 400
Philadelphia, PA 19106-2515

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
170-2004-00607	Legal Unit	215-440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- [] The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- [] Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- [] The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- [] We cannot investigate your charge because it was not filed within the time limit required by law.
- [] Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- [] While reasonable efforts were made to locate you, we were not able to do so.
- [] You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- [x] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- [] The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- [] Other (briefly state) _____

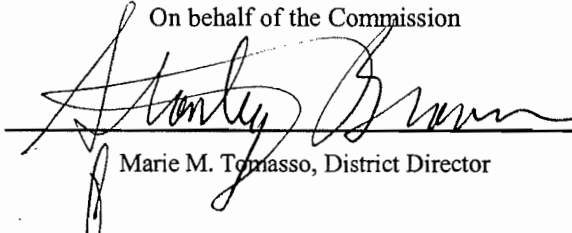
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission


Marie M. Tomasso, District Director


(Date Mailed)

Enclosure(s)

Information Sheet

cc: Martin Meltzer, Esq for Respondent

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of

Delaware

Bracy C. Dixon Jr.
v.

SUMMONS IN A CIVIL CASE

City of Wilmington,
etal

CASE NUMBER:

06 - 344

TO: (Name and address of Defendant)

City of Wilmington
800 N. French St.
Wilmington, De 19801

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Bracy C. Dixon Jr.
806 W 34th St.
Wilmington, De 19802

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

A-5

PETER T. DALLEO

CLERK

MAY 24 2006

DATE

Eustis Wab

(By) DEPUTY CLERK

06-344

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Bracy Dixon
806 W. 34th St. 302-764-1130
Wilmington DE 19802
(b) County of Residence of First Listed Plaintiff Newcastle
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS City of Wilmington, Chief
James Ford, Deputy Chief Willie Patrick,
Battalion Chief George Cunningham.
 County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF** **DEF**
- Citizen of This State ☒ 1 ☐ 1 Incorporated or Principal Place of Business In This State
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. 2000e-5
 Brief description of cause: Racial Discrimination
Sex Discrimination Retaliation Career Sabotage Employment Discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 5 million

CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Honorable Sue L. Robinson DOCKET NUMBER 1:05-cv-00479-SLRDATE 22 May 2006 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

A-6

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2006 MAY 24 AM 9:44

(Del. Rev. 12/98)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Bracy C. Dixon

(Name of Plaintiff or Plaintiffs)

City of Wilmington

CIVIL ACTION No. 06 - 344

Chief James Ford

Deputy Chief Willie Patrick

Battalion Chief George Cunningham

(Name of Defendant or Defendants)

COMPLAINT UNDER TITLE VII

OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, for **employment discrimination**. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff resides at 806 W. 34th St.

(Street Address)

Wilmington Newcastle Delaware 19802

(City)

(County)

(State)

(Zip Code)

302-764-1130

(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at 300 N. Walnut St.

(Street Address)

Wilmington Newcastle Delaware 19802

(City)

(County)

(State)

(Zip Code)

4. The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's City of Wilmington (Fire Dept.) place of business

(Defendant's Name)

located at 300 N. Walnut St.

(Street Address)

Wilmington Newcastle Delaware 19801

(City)

(County)

(State)

(Zip Code)

5. The alleged discriminatory acts occurred on over a period of time
(Day) (Month) (Year)

6. The alleged discriminatory practice ☒ is ☐ is not continuing.

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,

(Agency) (Street Address) (City)
_____, regarding
(County) (State) (Zip Code)
defendant's alleged discriminatory conduct on _____,
(Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States
regarding defendant's alleged discriminatory conduct on: _____,
(Day) (Month) (Year)

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter
which was received by plaintiff on: _____,
(Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

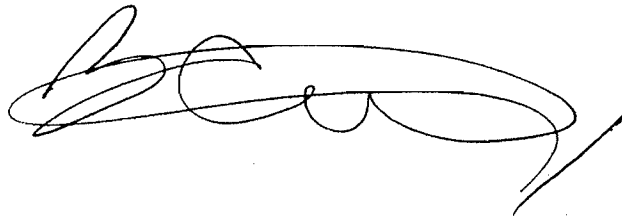
10. The alleged discriminatory acts, in this suit, concern:

- A. ☐ Failure to employ plaintiff.
- B. ☐ Termination of plaintiff's employment.
- C. ☐ Failure to promote plaintiff.
- D. ☒ Other acts (please specify below)

Retaliation, Career Sabotage, racial discrimination,
excessive punishment and extreme disciplinary actions
due to my race.

5 million dollars from the City of Wilmington,
\$250,000 from Chief James Ford, Deputy Chief
Willie Patrick, and Battalion Chief George Cunningham,
each. Cease all unfair, discrimination, bias treatment,
and harassment. Immediate resignation of all three parties
mentioned above.

22 May 2006

A handwritten signature in black ink, appearing to be 'B. Ford', written over a horizontal line.

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☐ Plaintiff's color
- C. ☐ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

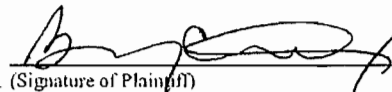
14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))

- A. ☒ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☒ That the Court appoint legal counsel.
- C. ☒ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 22 May 06


(Signature of Plaintiff)

(Signature of additional Plaintiff)

UNITED STATES DISTRICT COURT

District of DELAWARE

Plaintiff

V.

Defendant

NOTICE, CONSENT, AND ORDER OF REFERENCE —
EXERCISE OF JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE

Case Number:

**NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION**

In accordance with the provisions of 28 U.S.C. §636(c), and Fed.R.Civ.P. 73, you are notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of this district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Party Represented

Signatures

Date

ORDER OF REFERENCE

A-11

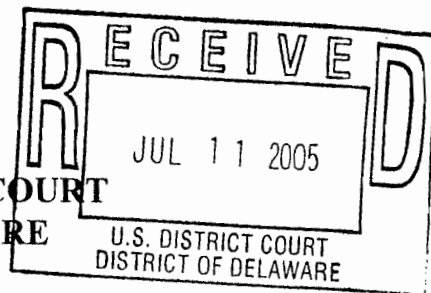
IT IS ORDERED that this case be referred to _____
United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. §636(c) and Fed.R.Civ.P. 73.

Date

United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED
ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

(Del. Rev. 12/98)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GALLANT BLAZER INC.

James R. Jones, President

Terrance Gadsen, Bracey Dixon, Fred Cooper, Anel Collins
(Name of Plaintiff or Plaintiffs) Corey Ferrell

05 - 479

v.

CIVIL ACTION NO. _____

City of Wilmington Fire Department

(Name of Defendant or Defendants)

COMPLAINT

1. This action is brought pursuant to 42 U.S.C. 2000 e-5
(Federal statute on which action is based)
for discrimination related to RACE, hiring, Promotion jurisdiction exists by virtue of
(In what area did discrimination occur? e.g. race, sex, religion)
42 USC 2000 e-5 .0.
(Federal statute on which jurisdiction is based)

2. Plaintiff resides at 106 W 42nd Street
(Street Address)
Wilmington New Castle Delaware 19802
(City) (County) (State) (Zip Code)
302-762-0607
(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at 300 N Walnut St
(Street Address)
Wilmington New Castle Delaware 19801
(City) (County) (State) (Zip Code)

4. The alleged discriminatory acts occurred on OVER Period of time
(Day) (Month) (Year)

5. The alleged discriminatory practice Q is Q is not continuing.

A-12

6. Plaintiff(s) filed charges with the EEOC
 (Agency)
21 S. Fifth St. Suite 400 Philadelphia, PA 19106-2515
 (Street Address) (City) (County) (State) (Zip)

regarding defendant(s) alleged discriminatory conduct on: _____
 (Date)

7. Attach decision of the agency which investigated the charges referred in paragraph 6 above.

8. Was an appeal taken from the agency's decision? Yes ☐ No ☒

If yes, to whom was the appeal taken? _____

9. The discriminatory acts alleged in this suit concern: (Describe facts on additional sheets if necessary)

I ALLEGED THAT WILMINGTON'S BLACK & HISPANIC FIREFIGHTERS
AS A WHOLE ARE BEING DISCRIMINATED AGAINST IN VIOLATION OF TITLE
VII OF THE CIVIL RIGHTS ACT OF 1964. I CONTEND THAT BLACKS &
HISPANICS ARE DISCIPLINED MORE SEVERELY THAN WHITES FOR SIMILAR
WORK RULE VIOLATIONS. RESPONDENT'S HIRING & PROMOTIONAL POLICIES
AND PRACTICES HAVE A DISPARATE IMPACT UPON BLACKS & HISPANICS.

10. Defendant's conduct is discriminatory with respect to the following:

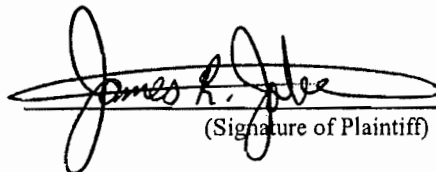
- ☒ A. ☐ Q Plaintiff's race
- ☒ B. ☐ Q Plaintiff's color
- C. ☐ Q Plaintiff's sex
- D. ☐ Q Plaintiff's religion
- E. ☐ Q Plaintiff's national origin

11. Plaintiff prays for the following relief: (Indicate the exact relief requested)

Will be determined at a later date. No
less than 5 million dollars.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 11 July 2005


(Signature of Plaintiff)

UNITED STATES DISTRICT COURT

District of DELAWARE

Plaintiff
V.

NOTICE, CONSENT, AND ORDER OF REFERENCE —
EXERCISE OF JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE

Case Number:

Defendant

**NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION**

In accordance with the provisions of 28 U.S.C. §636(c), and Fed.R.Civ.P. 73, you are notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of this district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Party Represented	Signatures	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ORDER OF REFERENCE

A-15

IT IS ORDERED that this case be referred to _____
United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. §636(c) and Fed.R.Civ.P. 73.

Date

United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED
ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of

Delaware

Bracy Dixon, Fred Cooper
Terence Gadsen, & Corey Ferrell

SUMMONS IN A CIVIL CASE

v.

City of Wilmington
Fire Department

CASE NUMBER: 1: 05-CV-00479 SLR

TO: (Name and address of Defendant)

City of Wilmington, Fire Department
800 N. French St.
Wilmington, De 19801

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Bracy C. Dixon Jr.
806 W. 34th St.
Wilmington, De 19802
302-764-1130

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

MAY 24 2006

CLERK

DATE

Ervette Watson
(By) DEPUTY CLERK

A-16

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:05-cv-00479-SLR**

Gallant Blazer Inc. et al v. City of Wilmington Fire
Department
Assigned to: Honorable Sue L. Robinson
Related Case: 1:06-cv-00344-SLR
Cause: 42:2000 Job Discrimination (Race)

Date Filed: 07/11/2005
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Gallant Blazer Inc.

represented by **Gallant Blazer Inc.**
PRO SE

Plaintiff

President James R. Jobes

represented by **James R. Jobes**
James R. Jobes, Pro se
106 W 42nd Street
Wilmington, DE 19802
(302) 762-0607
PRO SE

Plaintiff

Terrance Gadson

represented by **Terrance Gadson**
Terrance Gadson, Pro Se
2505 N. Heald Street
Wilmington, DE 19802
(302) 559-1242
PRO SE

Plaintiff

Bracey C. Dixon, Jr.

represented by **Bracey C. Dixon, Jr.**
Bracy C. Dixon, Jr., Pro Se
806 W. 34th Street
Wilmington, DE 19802
(302) 764-1130
PRO SE

Plaintiff

Fred Cooper

represented by **Fred Cooper**
Fred Cooper, Pro Se
28 Wick Drive
Parksburg, PA 19365
(302) 377-9623
PRO SE

Plaintiff**Anel Collins**

represented by **Anel Collins**
 Anel Collins, Pro Se
 615 W. 31st Street
 Wilmington, DE 19802
 (302) 293-7053
 PRO SE

Plaintiff**Corey Ferrell**

represented by **Corey Ferrell**
 Corey Ferrell, Pro Se
 2713 W. 3rd Street
 Wilmington, DE 19805
 (302) 275-0839
 PRO SE

V.

Defendant**City of Wilmington Fire Department**

Date Filed	#	Docket Text
07/11/2005	<u>1</u>	COMPLAINT filed against City of Wilmington Fire Department - Magistrate Consent Notice and Rule 4 to Pltf. (Filing fee \$ 250, receipt number 139897.) - filed by James R. Jobes. (Attachments: # <u>1</u> Civil Cover Sheet # <u>2</u> Acknowledgement of Consent Form # <u>3</u> Acknowledgement of Rule 4)(els,) (Entered: 07/12/2005)
07/11/2005		No Summons Issued (els,) (Entered: 07/12/2005)
07/20/2005		Case assigned to Judge Sue L. Robinson. Please include the initials of the Judge (SLR) after the case number on all documents filed. (rjb,) (Entered: 07/20/2005)
02/10/2006	<u>2</u>	ORDER TO SHOW CAUSE, on or before 2/28/2006, pltfs shall show cause why this case should not be dismissed for failure to serve process within 120 days of filing the complaint. Signed by Judge Sue L. Robinson on 2/10/06. (fmt,) (Entered: 02/10/2006)
03/13/2006	<u>3</u>	ORDER; this case is DISMISSED WITHOUT PREJUDICE for failure to serve process within 120 days of filing the complaint. Signed by Judge Sue L. Robinson on 3/13/06. (fmt,) (Entered: 03/13/2006)
03/20/2006		CASE CLOSED (rld,) (Entered: 03/20/2006)
04/17/2006	<u>4</u>	MOTION for Reconsideration re <u>3</u> Order with a copy of the complaint signed by Bracy C. Dixon, Jr., Terrence Gadson and Corey Ferrell - filed by Terrance Gadson, Bracey Dixon, Corey Ferrell. (Attachments: # <u>1</u> complaint# <u>2</u> attachments)(fmt,) (Entered: 04/18/2006)

04/18/2006		Remark: Plaintiff's addresses added to docket as provided in D.I. 4. (rbe,) (Entered: 04/18/2006)
05/12/2006	<u>5</u>	MOTION to Withdraw from Civil Action - filed by James R. Jobes, Anel Collins. (fmt,) (Entered: 05/15/2006)
05/24/2006		Summons Issued as to City of Wilmington Fire Department on 5/24/2006. (eew) (Entered: 05/24/2006)
06/13/2006	<u>6</u>	Letterfrom Bracy C. Dixon, Jr. regarding summons. (fmt,) (Entered: 06/14/2006)
06/13/2006	<u>7</u>	Return of Service Executed by Bracey C. Dixon, Jr. City of Wilmington Fire Department served on 6/5/2006, answer due 6/26/2006. (fmt,) (Entered: 06/14/2006)

PACER Service Center			
Transaction Receipt			
06/19/2006 11:54:15			
PACER Login:	ci0009	Client Code:	
Description:	Docket Report	Search Criteria:	1:05-cv-00479-SLR Start date: 1/1/1970 End date: 6/19/2006
Billable Pages:	2	Cost:	0.16

PACER Login:	ci0009	Client Code:	
Description:	Docket Report	Search Criteria:	1:05-cv-00479-SLR Start date: 1/1/1970 End date: 6/19/2006
Billable Pages:	2	Cost:	0.16

04/18/2006		Remark: Plaintiff's addresses added to docket as provided in D.I. 4. (rbe,) (Entered: 04/18/2006)
05/12/2006	5	MOTION to Withdraw from Civil Action - filed by James R. Jobes, Anel Collins. (fmt,) (Entered: 05/15/2006)
05/24/2006		Summons Issued as to City of Wilmington Fire Department on 5/24/2006. (eew) (Entered: 05/24/2006)

PACER Service Center			
Transaction Receipt			
06/05/2006 15:37:15			
PACER Login:	ci0009	Client Code:	
Description:	Docket Report	Search Criteria:	1:05-cv-00479-SLR Start date: 1/1/1970 End date: 6/5/2006
Billable Pages:	2	Cost:	0.16

EEOC FORM 131 (5/01)

U. S. Equal Employment Opportunity Commission

<p><i>James W. Ford</i> Mr. Clifton E. Armstead Chief CITY OF WILMINGTON Fire Department 300 N. Walnut Street Wilmington, DE 19801</p>	<p>PERSON FILING CHARGE</p> <p>James Jobes</p> <p>THIS PERSON (check one or both)</p> <p><input checked="" type="checkbox"/> Claims To Be Aggrieved</p> <p><input type="checkbox"/> Is Filing on Behalf of Other(s)</p> <p>EEOC CHARGE NO.</p> <p>170-2004-01671</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

☒ Title VII of the Civil Rights Act☐ The Americans with Disabilities Act☐ The Age Discrimination in Employment Act☐ The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☒ No action is required by you at this time.2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.3. ☐ Please provide by _____ a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.4. ☐ Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.5. ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by _____ to
If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Howard Gurmankin,
Supervisory Investigator

EEOC Representative

Telephone: **(215) 440-2650****Philadelphia District Office**
21 South 5th Street
Suite 400
Philadelphia, PA 19106Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☐ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

A-21

Date	Name / Title of Authorized Official	Signature
May 28, 2004	Marie M. Tomasso, District Director	<i>Marie M. Tomasso</i>

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):



FEPA



EEOC

170-2004-01671

Delaware Department Of Labor

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. James Jobes

Home Phone No. (Incl Area Code)

(302) 593-0350

Date of Birth

03-27-1966

Street Address

City, State and ZIP Code

106 W. 42nd Street, Wilmington, DE 19802

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

CITY OF WILMINGTON, Fire Department

No. Employees, Members

101 - 200

Phone No. (Include Area Code)

(302) 576-3950

Street Address

City, State and ZIP Code

300 North Walnut Street, Wilmington, DE 19801

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

06-02-2003**03-08-2004**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I am employed in the position of Captain and am President of the Gallant Blazers, Inc., an association of Wilmington's Black and Hispanic firefighters. As an employee of the Fire Department, I have observed many personnel decisions that have adversely affected the employment of Blacks and Hispanics in the Department.
- II. I allege that Wilmington's Black and Hispanic firefighters, as a whole are being discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended (Title VII). I contend that (1) Blacks and Hispanics are disciplined more severely than Whites for similar work rule violations, (2) Respondent fails to apply its "random" drug testing policy to Blacks and Hispanics in the same manner it is applied to Whites and uses more frequent drug tests to harass Blacks and Hispanics, and (3) Respondent's hiring and promotional policies and practices have a disparate impact upon Blacks and Hispanics, whose opportunities to obtain positions within the Fire Department and to seek advancement within the Department is hindered by rules which favor Whites and favoritism shown toward Whites regarding promotion.

A-22

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

4-12-04

Date

James R. Jobes

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

PaperDocuments

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:06-cv-00344-UNA**

Dixon v. City Of Wilmington et al
Assigned to: Unassigned Judge
Demand: \$6,000,000
Related Case: 1:05-cv-00479-SLR
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 05/24/2006
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff**Bracey C. Dixon, Jr.**

represented by **Bracey C. Dixon, Jr.**
Bracy C. Dixon, Jr., Pro Se
806 W. 34th Street
Wilmington, DE 19802
(302) 764-1130
PRO SE

V.

Defendant**City Of Wilmington****Defendant****Chief James Ford****Defendant****Deputy Chief Willie Patrick****Defendant****Battalion Chief George Cunningham**

A-23

Date Filed	#	Docket Text
05/24/2006	<u>1</u>	COMPLAINT filed Pro Se against City Of Wilmington, James Ford, Willie Patrick, George Cunningham (Filing fee \$ 350, receipt number 143569.) - filed by Bracey C. Dixon, Jr. (Attachments: # <u>1</u> Civil Cover Sheet # <u>2</u> Acknowledgement of Consent Form # <u>3</u> Acknowledgement of Rule 4)(bad,) (Entered: 05/25/2006)
05/24/2006		Summons Issued as to City Of Wilmington on 5/24/2006; James Ford on 5/24/2006; Willie Patrick on 5/24/2006; George Cunningham on 5/24/2006. (bad,) (Entered: 05/25/2006)
05/24/2006	<u>2</u>	Notice of Availability of a U.S. Magistrate Judge to Exercise Jurisdiction

(bad,) (Entered: 05/25/2006)

PACER Service Center			
Transaction Receipt			
05/26/2006 15:03:24			
PACER Login:	ci0009	Client Code:	
Description:	Docket Report	Search Criteria:	1:06-cv-00344-UNA Start date: 1/1/1970 End date: 5/26/2006
Billable Pages:	1	Cost:	0.08

A-24

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Bracey C. Dixon, Jr.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 06-344 SLR
	:	
City of Wilmington, Chief James Ford,	:	
Deputy Chief Willie Patrick and	:	
Battalion Chief George Cunningham,	:	
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I, Andrea J. Faraone, Esquire, hereby certify that on this 26th day of June, 2006, I filed the Defendants, City of Wilmington, James Ford, Willie Patrick and George Cunningham's Appendix to the Opening Brief in Support of Their Motion to Dismiss with the Clerk of Court using CM/ECF which will send notification of such filing(s) that this document is available for viewing and downloading from CM/ECF to the following:

Bracy C. Dixon, Jr.
806 W. 34th Street
Wilmington, DE 19802

/s/ Andrea J. Faraone
Andrea J. Faraone, Esquire (I.D. #3831)
City of Wilmington Law Department
Louis L. Redding City/County Building
800 N. French Street, 9th Floor
Wilmington, DE 19801
(302) 576-2175
Attorney for Defendants